

ITEM: 7

SUBJECT: James G. Sweeney and Amelia M. Sweeney,
Sweeney Dairy, Tulare County

BOARD ACTION: Consideration of an Administrative Civil Liability Order

BACKGROUND: James G. Sweeney and Amelia M. Sweeney (Discharger) own and operate the Sweeney Dairy (Dairy) in Tulare County. The Dairy is regulated by Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035 (General Order), which was adopted in May 2007. The General Order contains reporting requirements for dairies regulated by the General Order, including timely submission of technical reports. The reports are required to document that the dairies are operating in compliance with the General Order and are not unreasonably affecting groundwater and/or surface water quality. The Discharger failed to submit an Annual Report for the calendar year 2010, which was due by 1 July 2011. Central Valley Water Board staff issued a notice of violation to the Discharger for failure to submit the required report. To date, the Discharger has not submitted the report.

ISSUES: On 9 May 2012, the Executive Officer issued Administrative Civil Liability (ACL) Complaint R5-2012-0542 pursuant to California Water Code (CWC) section 13268, proposing that the Discharger be assessed monetary penalties in the amount of \$7,650 for failure to submit the technical report. The ACL Complaint provided the opportunity for the Discharger to reduce the full amount of the assessed monetary penalty by \$2,000 if the missing report was submitted by 28 May 2012, in an effort to stimulate compliance. The ACL Complaint was accompanied by Hearing Procedures which describe the process that must be followed if the matter proceeds to a hearing. The Discharger did not submit a signed form to waive its right to a hearing within 90 days after being served with the ACL Complaint by the 6 June deadline provided in the Hearing Procedures. The Discharger submitted evidence and argument by the 27 June 2012 deadline provided in the Hearing Procedures.

RECOMMENDATION: Prosecution Team recommends that the Central Valley Water Board adopt the Administrative Civil Liability Order as proposed.

2/3 August 2012
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